

potential buyers are coupled electronically over a communications network during the auction.

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131. The bidding device of claim 126, wherein if the submitted bid is less than the
corresponding bid floor in the comparison, the bidding device communicates to the potential
seller that the submitted bid is invalid.

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132. The bidding device of claim 126, wherein if the submitted bid is not less than the
corresponding bid floor in the comparison, the bidding device communicates to the potential
seller that the submitted bid is valid.

REMARKS

The Office Action dated August 14, 2000 (Paper No. 7) has been carefully reviewed.
Reconsideration of the grounds of rejection is respectfully requested in view of the remarks
herein.

Summary of the Office Action

Claims 71-76, 89 and 91 stand rejected under 35 U.S.C. §103(a) as being unpatentable
over published article titled "SOLD! ... TO THE LOWEST BIDDER," Computer Finance, v6,
n2, July, 1995 ("SOLD reference") in view of an Official Notice stated in the Office Action.

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Claims 89, 90, 92 and 93 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Pat. No. 6,023,685 to Brett et al. ("*Brett*").

Although Applicants do not agree with the Examiner's rejection, Applicants have canceled claims 89-93 in order to expedite issuance of the currently pending claims.

Applicants have added new claims 94-132. It is respectfully submitted that pending claims 71-76 and 94-132 represent patentable subject matter, because the cited prior art fails to disclose each element of these claims.

The Rejection Under 35 USC 103(a)

The Office Action asserts on Page 4, section 6, that the *SOLD* Reference teaches "setting an individual bid ceiling (and bid floor) for at least one of said plurality of potential bidders (sellers) (p. 2 L 27-35)".

Applicants respectfully disagree. The cited prior art fails to disclose an individual bid ceiling for each of a plurality of potential sellers bidding in a reverse auction, or an individual bid floor for each of a plurality of potential bidders in a forward auction, as required by all pending claims.

The Office Action takes Official Notice that "bidder specific ceiling and floor are old and well known concepts in art of commercial auctions and project procurement." (Office Action, Page 4, Section 6). Applicants respectfully disagree. The prior art discloses bid ceilings and floors, and the use of both a bid ceiling and a bid floor in a single auction; however, the prior art

fails to discuss a “*bidder specific* ceiling and floor” in any context. Rather the prior art is directed to a *single market-wide* bid ceiling and/or bid floor for all bidders, with no variation accorded to individual bidders.

The *SOLD* reference teaches setting a single market-wide bid ceiling and/or bid floor for all bidders. In the *SOLD* reference, this single market-wide bid ceiling and/or bid floor is applied to every bidder in the market.^{1/} This aspect of the prior art was acknowledged in the present specification which teaches at Page 36, lines 2-7, as follows:

It is common for sellers (upward auctions) and buyers (downward auctions) to place market limitations on the amounts that bidders may submit as valid bids during the course of an online auction. For example, a buyer may require that bidding start below a certain ceiling. In this case ... bids submitted above that ceiling are not accepted. Such a limitation applies across the board to all potential bidders (suppliers).

This is the type of market-wide bid ceiling disclosed in the *SOLD* reference. The present invention, however, is directed to setting individual bid ceilings and bid floors, wherein at least one bidder's bid ceiling/floor is different from another bidder's bid ceiling/floor.

As the present specification teaches at Page 37, line 25 through Page 38, line 1:

the bidder-specific bid limitations feature [of the present invention] addresses the shortcomings of market-wide bid ceilings. With this feature, an online auction can be set up such that individual bidders have different limits on the bids that will be accepted during the course of the auction. For an upward auction, the seller may set different floor prices for different bidders. For a downward auction, individual ceiling prices can be established for bidders. (Emphasis supplied)

^{1/} The *SOLD* reference teaches “setting two confidential reserve prices. The ceiling price – which effectively signals the purchaser's highest level of spend – and a target lowest-price figure, known as the floor rate (this is the rate at which the purchaser would expect a lower bid to be made at the expense of quality or service).” (*SOLD*

The *SOLD* reference mentions use of bid ceilings and bid floors only in the context of a *single market-wide* bid ceiling or bid floor that is applied to all bidders. It does not teach setting *individual* bid ceilings and bid floors for each of the potential bidders.

In addition, the Office Action asserts that the motivation to use individual bid ceilings or floors is taught by the *SOLD* reference because “(a) individual bid ceiling would limit those seller who can meet the requirements of the buyer such as creditworthiness and capacity to meet production and quality of goods, and (b) individual bid floor would reduce a risk that a bid received from a potential seller is economically viable consistent with the sellers creditworthiness and capacity to meet production and quality of goods.” (Office Action, page 5, lines 1-5).

It is respectfully submitted that nothing in the *SOLD* reference would provide any motivation to adopt the individual bid floors/ceilings as set forth in the present claims. In particular, pending independent claims 71, 103 and 118 recite the use of individual bid ceilings in the context of downward auctions. In the context of a downward auction, individual bid ceilings would not serve to limit the auction to sellers who could meet a buyer’s “credit worthiness” or “capacity” limitations, as suggested in the last Office Action. In the context of a downward auction, only a bid floor could possibly accomplish such objectives. Put another way, if a buyer in a downward auction wanted to limit seller bidding in a manner that ensured that “credit worthiness” or “capacity” limitations for a given seller were not exceeded, the buyer

reference, p. 2, lines 27-31, emphasis added).

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would limit the lowest bid submitted by such seller (e.g., by using a bid floor), rather than limiting the highest allowed bid (e.g., by using a bid ceiling) for such seller, as set forth in claims 71, 103 and 118. Accordingly, it is respectfully submitted that, in the context of downward auctions, the claimed individual bid ceilings are neither shown nor suggested by the SOLD reference.

Similarly, pending independent claims 74, 111 and 126 recite the use of individual bid floors in the context of upward auctions. In the context of an upward auction, individual bid floors would not serve to limit the auction to buyers who could meet a seller's "credit worthiness" or "capacity" limitations, as suggested in the last Office Action. In the context of a upward auction, only a bid ceiling could possibly accomplish such objectives. Put another way, if a seller in an upward auction wanted to limit buyer bidding in a manner that ensured that "credit worthiness" or "capacity" limitations for a given buyer were not exceeded, the seller would limit the highest bid submitted by such buyer (e.g., by using a bid ceiling), rather than limiting the lowest allowed bid (e.g., by using a bid floor) for such buyer, as set forth in claims 74, 111 and 126. Accordingly, it is respectfully submitted that, in the context of upward auctions, the claimed individual bid floors are neither shown nor suggested by the SOLD reference.

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CONCLUSION

In view of the foregoing, it respectfully submitted that all independent claims are in condition for allowance, and that each dependent claim is allowable because it depends from an allowable base claim. Applicants therefore respectfully request timely allowance of claims 71-76 and 94-132.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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